

REMARKS

Claims 1, 5-17, and 31-40 are pending in the present application. Claims 2-4 and 18-30 were previously canceled. Claims 1, 9, 10, 11, 14, 16, 17, and 31-40 have been amended. No new matter has been added. Applicants respectfully request reconsideration of the claims in view of the following remarks.

As an initial note, Applicants thank Examiner Ibrahim for taking the time to discuss this case over the telephone on June 7, 2010 and June 14, 2010. The claims were discussed with regard to Davies. In particular, Examiner Ibrahim clarified that the Advisory Action asserts that the “threshold” recited in claim 1 was disclosed by the “local threshold” of Davies as illustrated in Figure 5, and that the “measurement level” of Applicants’ claim 1 was disclosed by the “current bandwidth usage” of Davies as illustrated in Figure 5. Claims 14 and 16 were also discussed with respect to patentability of software claims. Applicants thank Examiner Ibrahim for taking the time to discuss this case and to provide this clarification. His comments were very helpful and greatly appreciated. Further, while no agreement was made, Examiner Ibrahim did state that he would consider the arguments and amendments submitted herein.

Claims 1, 5-17, and 31-40 have been rejected under 35 U.S.C. § 103(a) as assertedly being unpatentable over U.S. Patent No. 6,839,767 (hereinafter “Davies”), in view of U.S. Patent No. 6,366,559 (hereinafter “Krishnan”) and U.S. Patent No. 6,888,842 (hereinafter “Kirby”). Applicants respectfully traverse these rejections.

Applicants have amended the claims 1 and 31 to clarify that there are two thresholds, a requested resources threshold and a measurement level threshold. In contrast, Davies only discloses a single threshold. The current bandwidth usage is not a threshold as recited in Applicants’ claims.

In view of the above remarks, Applicants respectfully request that the rejection of claims 1, 5-17, and 31-40 be withdrawn.

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Roger C. Knapp, Applicants' Attorney, at 972-732-1001, so that such issues may be resolved as expeditiously as possible. The Commissioner is hereby authorized to charge any fees that are due, or credit any overpayment, to Deposit Account No. 50-1065.

Respectfully submitted,

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Date

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